

Committee Substitute for House Bill No. 11

An act relating to arrests; amending s. 901.02, F.S., relating to issuance of arrest warrants; providing that a warrant is issued at the time it is signed by the magistrate; providing that the court may issue a warrant for the defendant's arrest under specified circumstances when a complaint has been filed charging the commission of a misdemeanor only and the summons issued to the defendant is returned unserved; creating s. 901.36, F.S.; prohibiting a person who has been arrested or lawfully detained by a law enforcement officer from giving a false name or otherwise falsely identifying himself or herself to the law enforcement officer or county jail personnel; providing penalties; providing for an increased penalty if a person is adversely affected by the unlawful use of the person's name or other identification; permitting the adversely affected person to obtain court orders to correct public records under specified circumstances; authorizing issuance of such court orders by the sentencing court; providing for restitution orders; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 901.02, Florida Statutes, is amended to read:

901.02 When warrant of arrest to be issued.—

(1) A warrant may be issued for the arrest of the person complained against if the magistrate, from the examination of the complainant and other witnesses, reasonably believes that the person complained against has committed an offense within the magistrate's jurisdiction. A warrant is issued at the time it is signed by the magistrate.

(2) The court may issue a warrant for the defendant's arrest when all of the following circumstances apply:

(a) A complaint has been filed charging the commission of a misdemeanor only;

(b) The summons issued to the defendant has been returned unserved; and

(c) The conditions of subsection (1) are met.

Section 2. Section 901.36, Florida Statutes, is created to read:

901.36 Prohibition against giving false name or false identification by person arrested or lawfully detained; penalties; court orders.—

(1) It is unlawful for a person who has been arrested or lawfully detained by a law enforcement officer to give a false name, or otherwise falsely identify himself or herself in any way, to the law enforcement officer or any

county jail personnel. Except as provided in subsection (2), any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who violates subsection (1), if such violation results in another person being adversely affected by the unlawful use of his or her name or other identification, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) In sentencing a person for violation of this section, a court may order restitution.

(b) The sentencing court may issue such orders as are necessary to correct any public record because it contains a false name or other false identification information given in violation of this section.

(c) Upon application to the court, a person adversely affected by the unlawful use of his or her name or other identification in violation of this section may obtain from the court orders necessary to correct any public record, as described in paragraph (b).

Section 3. This act shall take effect July 1, 1999.

Approved by the Governor May 14, 1999.

Filed in Office Secretary of State May 14, 1999.